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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/907,368	07/17/2001	Rie Saito	1232-4741	6481
27123	7590	08/03/2004		EXAMINER
MORGAN & FINNEGAN, L.L.P. 345 PARK AVENUE NEW YORK, NY 10154				AFSHAR, KAMRAN
			ART UNIT	PAPER NUMBER
			2681	
			DATE MAILED: 08/03/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 09/907,368	Applicant(s) SAITO ET AL.
	Examiner <i>K.A.</i> Kamran Afshar, 703-305-7373	Art Unit 2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_.
- 2a)  This action is FINAL.                    2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_ is/are allowed.
- 6)  Claim(s) 1,2,6-8,11,14-16 and 19-21 is/are rejected.
- 7)  Claim(s) 3-5,9,10,12 and 13 is/are objected to.
- 8)  Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a)  All    b)  Some \* c)  None of:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2-4-5</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-2, 6-8, 11, 14-16, 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Nounin (U.S. Patent 5,802,469).

With respect to claims 1, 8, 11, Nounin discloses a wireless communication apparatus / method / program (See, e.g. Figs. 1 -3) comprising: forming means (See e.g. 21 of Fig. 2) for forming a wireless communication channel (See e.g. Radio channel, Frequency, Slot, Bandwidth, Band, etc.) to a public network base station; connection means (See e.g. 2-6 of Fig. 2) for connecting a plurality of

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communication apparatuses to the communication channel (See e.g. Flow chart of Figs. 4-6); and setting means for setting up a communication speed (See e.g. transmission speed, data rate bit/sec, etc.) of the communication channel according to the communication speed (See e.g. transmission speed, data rate bit/sec, etc.) of a plurality of communication apparatuses (See e.g. Co. 3, Line 65 – Co. 4, Line 15 & Entire Document).

Regarding claim 2, Nounin discloses setting means determines whether a communication speed of the communication channel (See e.g. Radio channel, Frequency, Slot, Bandwidth, Band, etc.) shall be changed according to the speed (See e.g. Low transmission speed, High transmission speed, Low speed channel, High speed channel, transmission speed, data rate bit/sec, etc.) of a communication which one of a plurality of communication apparatuses starts and the communication speed of the communication channel (See e.g. Co. 17, Lines 36-50).

Regarding claims 6, 16, Nounin discloses setting means communicates with a plurality of communication apparatuses according to a communication system different from the communication system used in the communication channel (See e.g. Co. 3, Line 65 – Co. 4, Line 16, Co. 12, Lines 17-35).

Regarding claim 7, Nounin discloses connection means performs a wireless communication with plurality of communication apparatuses (See e.g. Co. 3, Line 65 – Co. 4, Line 16, Co. 12, Lines 17-35).

With respect to claims 14, Nounin discloses wireless communication system comprising a wireless communication apparatus and a wireless public network (See e.g. Fig. 8, Co. 3, Lines 31-64), wherein said wireless public network comprising: a base station; and a location registration database; wherein the wireless communication apparatus comprising (See e.g. Co. 12, Lines 38-50, Co. 11, Lines 6-10, Co. 26, 48-53); forming means for forming a communication channel (See e.g. Radio channel, Frequency, Slot, Bandwidth, Band, etc.) to base station; connection means for connecting a plurality of communication apparatuses to the communication channel ; and setting up means for setting up the communication speed (See e.g. transmission speed, data rate bit/sec, etc.) of the communication channel according to the communication speed of a plurality of communication apparatuses (See e.g. Co. 3, Line

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65 – Co. 4, Line 15); wherein location registration database stores the locations of plurality of communication apparatuses (See e.g. Co. 27, Lines 4-35, Figs. 19-20 & Entire Document).

Regarding claim 15, Nounin discloses location registration database stores the location of said wireless communication apparatus (See e.g. Control Station A3, Co. 12, Lines 38-50, Co. 11, Lines 6-10, Co. 26, 48-53).

Regarding claims 17, 20, Nounin discloses the wireless public network (See e.g. Fig. 8), processes incoming calls to the plurality of communication apparatuses according to the location registration database (See e.g. Co. 12, Lines 38-50, Co. 11, Lines 6-10, Co. 26, 48-53, Control Station A3, Co. 26, 48-53).

Regarding claims 18, 21, Nounin discloses the wireless public (See e.g. Figs. 3, 8, 9, 37) network performs the to the public network corresponding to the plurality of communication apparatuses (Co. 3, Lines 45-64, Co. 8, Lines 24-41).

With respect to claims 19, Nounin discloses a wireless communication system comprising a wireless communication apparatus and a wireless public network (See e.g. Fig. 8, Co. 3, Lines 31-64), wherein the wireless public network comprising: a base station; and a location registration database (See e.g. Control Station A3, Co. 26, 48-53); wherein the wireless communication apparatus comprising (See Co. 12, Lines 38-50, Co. 11, Lines 6-10, Co. 26, 48-53): forming means for forming a communication channel (See e.g. Radio channel, Frequency, Slot, Bandwidth, Band, etc.) between the base stations; and connection means for connecting a plurality of communication apparatuses to the communication channel (See e.g. Radio channel, Frequency, Slot, Bandwidth, Band, etc.); wherein the connection means communicates with the plurality of communication apparatuses according to a communication system different (See e.g. Low transmission speed, High transmission speed, Low speed channel, High speed channel, transmission speed, data rate bit/sec, etc. Co. 17, Lines 36-50) from the communication system of the communication which the forming means perform with the base station, and the location registration database stores (See e.g. Control Station A3, Co. 26, 48-53) the wireless communication apparatus and the base station corresponding to the plurality of communication apparatuses (See e.g. Co. 27, Lines 4-35, Figs. 19-20 & Entire Document).

***Allowable Subject Matter***

3. Claims 3-5, 9-10, 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With respect to claims 3, 9, 12, the prior art of record fails to disclose or render obvious that the setting up means / step maintains the communication speed of the communication channel when a total sum of the speed of the communication which one of a plurality of communication apparatuses starts and the speed of the communication previously performed is equal to or less than the communication speed of the communication channel.

With respect to claim 4, 10, 13, the prior art of record fails to disclose or render obvious that the setting up means / step maintains the communication speed of the communication channel when one of a plurality of communication apparatuses finishes the communication and if the speed of another communication is equal to or more than a predetermined value

With respect to claim 5, the prior art of record fails to disclose or render obvious that setting means sets up the communication speed of the communication channel according to the communication speed requested by a plurality of communication apparatuses and the communication speed of a control data used on the communication channel.

***Conclusion***

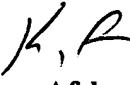
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Serge Manning (U.S. Patent 6,088,578), Discloses Burst Request Method and Apparatus For CDMA High Speed Data.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kamran Afshar whose telephone number is (703) 305-7373. The examiner can be reached on Monday-Friday.

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If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached @ (703) 308-4825. The fax number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

  
Kamran Afshar

  
DAVID HUDSPETH  
SUPERVISORY PATENT EXAMINER  
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